

No 5581-4Lab-71/17687.—In pursuance of the provisions of section 17 of the Industrial Disputes Acts, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Bharat Soap & Oil Industries, Kundli (Sonepat).

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 188 of 1970

Between

THE WORKMEN SARVSHRI ZILLA SINGH, SON OF RAM NARAIN, JALDHARI,
SON OF SHRI RAM NARAIN AND RANDHIR SINGH, SON OF
SHRI LALU, VILLAGE KUNDLI (SONEPAT) AND
THE MANAGEMENT OF M/S BHARAT SOAP &
OIL INDUSTRIES, KUNDLI

Present :—

Shri M. S. Rathi, for the workmen.

Shri I. D. Gupta, for the management.

AWARD

Sarvshri Zilla Singh, Jaldhari and Randhir Singh were in the service of M/s Bharat Soap & Oil Industries, Kundli (Sonepat), since 1966. Their case is that the work at Kundli was not much and the proprietor asked them to work for some time in Delhi Factory and their services were verbally terminated on 25th February, 1970, without giving any reason. The workmen are aggrieved by reason of their alleged wrongful termination of services and raised an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide GOVERNMENT GAZETTE* notification No. ID/RK/16-A-70/31213, dated 7th October, 1970.

Whether the termination of services of Sarvshri Zilla Singh, Jaldhari and Randhir Singh was justified and in order. If not, to what relief are they entitled?

On receipt of the reference usual notices were issued to the parties in response to which the management filed their written statement. The case of the management is that the work in their Kundli factory was stopped with effect from 7th February, 1970, and some of the workmen were paid off. As regards the applicants, it is pleaded that they agreed to work in their Delhi factory and so their services were transferred to Delhi and they worked there up to 24th February, 1970, but on 25th February, 1970, they refused to work without any reason whatsoever. Accordingly they were given a charge-sheet on the next day, i.e., 26th February, 1970, to which the workmen did not give any reply and then,—*vide*, letter dated 7th March, 1970, a copy of the charge-sheet dated 26th February, 1970, was sent to them by registered post which was received by them on or about 16th March, 1970, but the workmen again failed to submit any reply to the charge-sheet. So the management fixed 3rd April, 1970, for holding the enquiry and the workmen were duly informed of the same by means of a registered letter dated 24th March, 1970. It is alleged that the workmen did not appear before the Enquiry Officer and so *ex parte* proceedings were taken against them in which their guilt was established and accordingly they were dismissed from service with effect from 7th April, 1970.

The validity of the present reference is questioned on a number of legal grounds. It is pleaded that since the services of the workmen had been transferred to Delhi, the Government of Haryana had no jurisdiction to make the reference and this Court has also no territorial jurisdiction to adjudicate upon the dispute. It is, further pleaded that the present reference has been made on the basis of a demand notice dated 28th February, 1970, while the services of the workmen were terminated on 7th April, 1970. The workmen did not serve any notice of demand after 7th April, 1970, which was rejected by the management and, therefore, there was no industrial dispute between the parties which could be referred. The pleadings of the parties give rise to the following preliminary issues:—

1. Whether no industrial dispute exists because no notice of demand was given by the claimants workmen to the management before moving the Conciliation Officer?
2. Whether the notice of demands dated 28th February, 1970, is illegal?

3. Whether the reference is illegal because the factory at Kundli (Sonepat) has been closed before the date of the present reference ?
4. Whether the Government of Haryana has no jurisdiction to refer the dispute to this Court ?
5. Whether the Government of Haryana has no territorial jurisdiction to make the reference because the factory at Sahipur where the workmen are employed is situated in the territory of Delhi ?

The evidence of the parties was recorded but during the course of arguments it was felt that a piecemeal trial was not desirable and the parties were also agreed that the preliminary issues be decided alongwith the merits of the case. The only issue which arose on the merits of the case was precisely the same as in the order of reference. Thereafter the management produced the domestic enquiry held by them against the workmen and the workman also produced further evidence in support of their case. I have heard the learned representative of the parties and carefully considered their submissions. My findings are as under :—

Issue No. 3.—In my opinion the main point which requires consideration in this case is whether the respondent factory at Kundli has actually been closed as stated by the management and the services of the three claimants were verbally transferred with the consent of the parties to Delhi. If the closure is established then obviously the reference would be illegal. On this point Shri S.C. Gupta, Partner of the respondent concern in his evidence has stated that their factory at Kundli has not worked at all after 7th February, 1970, and all the workmen were told that if they wish to continue their service they could work in Delhi otherwise they could settle their accounts. Shri Gupta says that all the three applicants in the present case agreed to work in Delhi factory and they started working there from 9/10th February, 1970, and their names were also duly entered in the attendance register of the Delhi factory. He has further stated that after the factory at Kundli was closed the Department of Industries were duly informed of this fact,—*vide* letter dated 18th November, 1970, copy Ex. M.W.1/1 which was sent under postal certificate marked Ex. M.W.1/2. Shri Gupta says that the District Employment Exchange and the Assistant District Industries Officer were also informed,—*vide* the letter, dated 2nd July, 1970, copy Ex.M.W.1/3 and the letter, dated 9th July, 1970, copy Ex. M.W.1/4 respectively and the Assistant District Industries Officer also informed the management,—*vide* his letter Ex. M.W.1/5 that the factory at Kundli had been de-registered as desired and for this reason the bank limits which had been sanctioned in favour of the management also came to an end.

There appears to be some truth in the version of the management because Shri Zilla Singh in his evidence admit that when the management asked them to work for few days in Delhi and that time no work was being done in the Kundli Factory. In cross-examination Shri Gupta, Partner of the respondent concern has stated that the accounts of the four or six workmen who did not wish to serve in Delhi were settled. This version has not been controverted. No doubt Shri Jaldhari and Shri Randhir workmen have stated that when they were asked to work in Delhi for a few days then the factory at Kundli was working. However, none of the applicant or their representative Mr. Rathi who has also appeared as a witness have been able to name even one workman who was previously working in the factory at Kundli before the alleged closure and who continued to work at Kundli. Under these circumstances the version of Shri Gupta, Partner of the respondent concern has to be accepted that none of the old workman have continued in the new factory at Kundli which started functioning only from the month of September, 1970. According to the evidence of Shri Gupta, the new factory is working under different partners, Sarvshri S.C. Gupta, Kartar Singh and Smt. Sudha Goel who were partners in the old factory are also the partners of the new factory. The submission of the learned representative of the workman is that the management have simply executed a new partnership deed and have dropped one or two partners and the close relatives have been taken as new partners simply for the purpose of committing a fraud on the law and forgetting rid of a few inconvenient workmen. I am afraid it is not possible for me to express any opinion on this point because the plea of fraud which is being advanced for the first time during the course of arguments was never taken up earlier and it is not possible for me to hold that the old factory at Kundli is still working although a new partnership deed has been executed and the old factory has been de-registered. If the workmen had taken up the plea of fraud at an earlier stage then it would have been possible to go more deeply into this question and decide as to whether the old partners have actually wound up their assets and liabilities and new partners have invested fresh capital and it is not just a continuation of the old factory with new name. In my opinion, it is satisfactorily established by the evidence of the management that the respondent factory at Kundli has been closed. I, therefore, find this issue in favour of the management.

In view of my findings above it is not necessary to go into the other issues and decide as to whether the services of the applicants were actually terminated on 25th February, 1970 as alleged by them and all the subsequent proceedings taken by the management with regard to the framing of the charge-sheet, holding of the domestic enquiry and the formal dismissal on 7th April, 1970, were simply a force and were taken to defeat the demand notice, dated 28th February, 1970, which was duly served on the management. With these remarks I hold that the workmen are not entitled to any relief in these proceedings. I give my award accordingly. No order as to costs.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 941, dated Rohtak, the 21st May, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 5580-4Lab-71/17689.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Bharat Steel Tubes Ltd., Ganaur (Rohtak):—

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 165 of 1970

Between

SHRI P. M. BHANDARI, 204, SHOPPING CENTRE, GUMANPURA, KOTA (RAJASTHAN) AND THE MANAGEMENT OF M/S BHARAT STEEL TUBES LIMITED, GANAUR (ROHTAK)

Present.—

Nemo for the workman.

Sh. J. P. Jain, for the management.

AWARD

Shri P. M. Bhandari was working as the Chief Timekeeper in M/s Bharat Steel Tubes Ltd., Ganaur. His service stood terminated with effect from 2nd February, 1970. He is aggrieved by reason of the termination of his services and this gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide GOVERNMENT GAZETTE* notification No. ID/RK/43-0-70/27202, dated 7th September, 1970.

Whether the termination of services of Shri P. M. Bhandari was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties in response to which the management filed their written statement. The case as given in the claim statement received along with the order of reference is that the workmen was appointed on 3rd August, 1968, at Rs 415 per mensem and that he worked up to 10th November, 1969, and proceeded on leave from 11th November, 1969 to 30th November, 1969. He remained on leave up to 10th January, 1970. Thereafter he could not resume his duty on account of his illness but the management treated him on leave up to 17th January, 1970, only and then struck off his name with effect from 2nd February, 1970. According to the workman he was ill upto 11th February, 1970. A fitness certificate was issued to him by the E. S. I. Dispensary with effect from 12th February, 1970 and, therefore, the order of the management terminating his service with effect from 2nd February 1970, is clearly wrong.

On behalf of the management a preliminary objection is taken that there is no industrial dispute between the parties because the workman never submitted any notice of demand which was rejected by the management. On merits the case of the management is that the workman was on leave up to 10th January, 1970, only and thereafter his leave was extended up to 17th January, 1970, in view of the E. S. I. certificate by which he was recommended rest for a period of 7 days. The case of the management is that after 17th January, 1970, no information regarding the alleged continued illness of the applicant was received and he continued to remain absent without any intimation and, therefore, his name was struck off the rolls with effect from 2nd February, 1970, in accordance with the provision of the Certified Standing Orders of the respondent company. It is alleged that a letter dated 8th February, 1970, was received from the workman that he was unable to attend on account of his illness but no action could be taken on this representation as his name had already been struck off. The pleadings of the parties gave rise to the following issues :—

- (1) Whether the reference is illegal because no industrial dispute exists between the parties and the demand notice dated 14th March, 1970, is merely an application to the Labour Officer-cum-Conciliation Officer and no demand has been made on the management which was ever refused ?

- (2) Whether the workman is deemed to have abandoned his service under Certified Standing Orders of the respondent company and his services have not been terminated by the management and for this reason the provisions of section 2-A of the Industrial Disputes Act, 1947, do not apply and the reference is invalid on this ground ?

Issue No. 1.—The management themselves admit that the letter dated 8th February, 1970, marked Ex. M. W. 1/15 was received from the workman protesting against the termination of his services. The stand of the management is that his service stood rightly terminated because of his un-explained absence from 17th January, 1970, onwards. It is, therefore, not correct to say that the workman never protested against the termination of his service and, therefore, there was no industrial dispute between the parties which could be referred for adjudication. I find this issue in favour of the workman.

Issue No. 2.—It appears that the workman is not serious in the prosecution of his case. When the order of reference was received by my learned predecessor Shri O. P. Sharma on 24th September, 1970, he ordered that notice be issued to the parties for 2nd November, 1970. A notice under registered cover was issued to the workman at the address given in the order of reference but this notice was received back un-served because the address given in the order of reference was not found to be correct. The file was put up before me on 15th December, 1970, on account of the transfer of Shri Sharma and it was ordered that fresh notice be issued to the workman. Shri J. P. Jain, Administrative Officer of the respondent concern given an address of the workman which according to his opinion was the correct address. It was ordered that the notices be issued both at the address given in the order of reference and the address given by Shri Jain for 19th January, 1971. This notice was sent by ordinary post. The workman was not present on the date fixed and, therefore, fresh notice was ordered be issued to the workman for 11th February, 1971, under registered cover. This time the management themselves sent notices under registered cover at the three addresses and the service of the workman was effected. The workman did not appear even on 11th February, 1971, and a telegram was received from him in which he requested for adjournment of the case on the ground that there has been a death in his family. It was not considered necessary to adjourned the case just for framing of the issues. Therefore, a preliminary issue which is No. 1 as above was framed and the case was adjourned for evidence and arguments to 5th April, 1971, and it was also ordered that the workman be informed of the date fixed. The workman was present on 5th April, 1971, and he filed certain documents. The case was adjourned to 27th April, 1971, to enable the representative of the management to admit or deny the documents filed by the workman. On 27th April, 1971, the workman again became absent. Arguments of the representative of the management were heard and it was considered proper that the issue on merits be also framed and the preliminary issue be decided along with the issue on merits. The issue on merits, was, therefore, framed and the case was adjourned to 17th May, 1971, for the evidence of the parties and it was against ordered that the workmen be informed of the dated fixed.

It appears that the workman came sometime in the later part of the day and the office informed him of the next date fixed and also informed him that in view of the fact that the offices of the Government of Haryana would be observing morning hours during three summer months of May, June, and July he should appear at 8.00 a. m. The signatures of the workman with regard to the date and time at which the case would be heard were taken. On the date fixed the workman was again absent although I waited for him up to 10.45 a. m. It was not considered proper that the management should be harrassed again and again and the case be kept pending till it is convenient to the workman to attend the Court. The evidence of Shri J.P. Jain, Administrative Officer of the respondent concern was, therefore, recorded.

It is proved by the evidence of Shri Jain that the workman was on sanctioned leave up to 10th January, 1970, only and thereafter he was treated on sick leave up to 17th January, 1970, simply because of the sickness certificate issued by the Employees State Insurance Corporation recommending 7 days rest to the workman. The management have filed a copy of the entries from the attendance register in which the workman is shown to be absent without leave with effect from 19th January, 1970, because 18th January, 1970, was Sunday and weekly holiday. The name of the workman was struck off from the rolls with effect from 2nd February, 1970, because of his un-explained continued absence.

The stand taken up by the workman in his letter dated 8th February, 1970 is that in view of his illness his name could not have been struck off till the E.S.I. gave him a fitness certificate. According to the allegations made by the workman in his claim statement, the E. S. I. gave him a fitness certificate only with effect from 12th February, 1970. It is alleged that the fitness certificate was forwarded to the Manager, Local Office, E.S.I. Carpon, Sonepat and to Shri V.P. Obroi, Factory Manager of the respondent concern. The management do not admit the receipt of the fitness certificate and the workman has not filed a copy of this fitness certificate in the Court. Under these circumstances it cannot be said that the workman was actually ill up to 11th February, 1970, as alleged by him. He is, therefore, deemed to have abandoned his service in accordance with the provision of the Certified Standing Orders of the respondent company. I find this issue in favour of the management.

In view of my findings above, it must be held that the termination of the services of the workman Shri P. M. Bhandari was not illegal and he is not entitled to any relief. I give my award accordingly. No order as to costs.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 888, dated Rohtak, the 17th May, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer, Labour Court, Haryana, Rohtak.

No. 5583-4Lab-71/17716.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Globe Steels, Ballabgarh.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

**Reference No. 11 of 1971.
*between***

**SHRI RANBIR SINGH, WORKMAN, C/o PRESIDENT, GENERAL LABOUR UNION
IK/16, N. I. T., FARIDABAD AND THE MANAGEMENT OF M/S. GLOBE
STEELS, BALLABGARH**

Present:—

Shri Roshan Lal, for the workman.

Shri H. R. Dua, for the management.

AWARD

The Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 has been pleased to refer the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/FD/53-H/55911, dated 28th December, 1970.

Whether the termination of services of Shri Ranbir Singh was justified and in order? If not: to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which the management filed their written statement. The workmen did not file any claim statement although he was ordered to do so. It is pleaded on behalf of the management that the factory has been closed with effect from 10th February, 1962 due to reasons beyond the control of the management. Before framing the issues it was considered necessary to record the statement of the workmen for the purpose of clarification and the case was adjourned to 21st April, 1971. The workman was not present. His representative requested for a short adjournment to contact the workmen and to produce him and on his request the case was adjourned to 23rd April, 1971. The workman did not appear even on the adjourned date. Since the workman has failed to appear in obedience to the orders of the Court although an adjournment was granted to him and the ascertain of the management that they had to close the factory with effect from 10th February, 1969 has not been controverted. I hold that the termination of the services of the workman was justified and in order and the workman is not entitled to any relief. I give my award accordingly. No order as to costs.

The 21st May, 1971.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 943, dated Rohtak the 21st May, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

B. L. AHUJA,
Commissioner for Labour and Employment
and Secretary to Government, Haryana.